

TIGARD MUNICIPAL CODE

Chapter 5.04 BUSINESS TAXES.

Sections:

- 5.04.010 Short Title.**
- 5.04.020 Purpose.**
- 5.04.030 Definitions.**
- 5.04.040 Prohibited Business Operation.**
- 5.04.050 One Act Constitutes Doing Business.**
- 5.04.060 Agents Responsible For Obtaining A Business Tax Receipt.**
- 5.04.070 Separate Tax For Branch Establishments.**
- 5.04.080 Rental Real Property.**
- 5.04.090 Joint Tax.**
- 5.04.100 No Tax Required For Mere Delivery.**
- 5.04.110 Business Tax Receipts For Nonprofit Enterprises.**
- 5.04.120 Issuance Of Business Tax.**
- 5.04.130 Procedure For Obtaining And Displaying A Receipt.**
- 5.04.140 Display.**
- 5.04.150 Reissue Of Tax Receipt.**
- 5.04.160 Fee Schedule.**
- 5.04.173 Temporary Business.**
- 5.04.180 Enforcement.**
- 5.04.190 Penalties.**
- 5.04.200 Rate Review And Adjustment.**

5.04.010 Short Title.

The provisions of this chapter shall be known and may be cited as the "Business Tax Ordinance of the City of Tigard." (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.020 Purpose.

The purpose of this chapter is to provide revenue for general municipal purposes and to recoup the necessary expenses required to undertake the activities of the City in the

administration and enforcement of this chapter. These fees shall be in addition to, and not in lieu of, any license permit fee, charge or tax required under any ordinance of the City.

It is not intended by this chapter to repeal, abrogate or annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction on persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

This chapter shall not be construed to constitute a regulation of any business activity or as a permit of the City to persons engaged therein to undertake unlawful, illegal or prohibited acts. Nothing in this chapter shall be construed to apply to any person transacting or carrying on any business within the City of Tigard which is exempt from taxation by the City by virtue of the Constitution of the United States or the Constitution of the state of Oregon or applicable statutes of the United States or the state of Oregon. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.030 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Business" means all kinds of vocations, occupations, professions, enterprises, establishments, and all kinds of activities and matters, together with all devices, machines,

TIGARD MUNICIPAL CODE

vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City.

2. A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the City, personally advertising by individual contract with residents of the City any goods, merchandise or service to be sold or performed within or without the City. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

3. "The City" means the City of Tigard, Oregon.

4. "City Council" means the City Council of the City of Tigard, Oregon.

5. "Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours equals the number of full-time equivalent employees working within the City of Tigard.

6. "Itinerant business" means all persons, firms or corporations, including merchants, solicitors, peddlers, hawkers and agents, engaging in the business in the City to sell or solicit for sale products or services, when such persons, firms or corporations do not maintain a permanent place of business within the City or who are not engaging in "temporary business" as defined below.

7. "Person" means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or

corporations; or any officers, agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

8. "Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit and livelihood at a fixed or permanently established place of business maintained within the City.

9. "Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

10. "Temporary business" means any business that meets the criteria outlined in Chapter 18.385.050 of the Community Development Code and has a valid temporary use permit. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.040 Prohibited Business Operation.

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first paid the business tax as provided by this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.050 One Act Constitutes Doing Business.

For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirements of Section 5.04.040, when undertaking one of the following acts:

1. Selling any goods or service;

TIGARD MUNICIPAL CODE

2. Soliciting business or offering goods or services for sale or hire;

3. Acquiring or using any vehicle or any premises in the City for business purposes. (Ord. 88-13 §1(Exhibit A)(part), 1988)

5.04.060 Agents Responsible For Obtaining A Business Tax Receipt.

The agents or other representatives doing business in the City shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.070 Separate Tax For Branch Establishments.

A tax shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business taxed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.080 Rental Real Property.

Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord. 88-

13 §1(Exhibit A)(part), 1988).

5.04.090 Joint Tax.

A person engaged in two or more businesses at the same location shall not be required to pay separate taxes for conducting each such business; but, when eligible, shall be issued one receipt which shall specify on its face all such businesses. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.100 No Tax Required For Mere Delivery.

No tax shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.110 Business Tax Receipts For Nonprofit Enterprises.

1. The City shall issue business tax receipts, without requiring the payment of any tax or other charges therefor to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the City finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose.

2. A nonprofit applicant shall submit an application therefor to the City upon the prescribed forms, and shall furnish such additional information and make such affidavits as the City shall require.

3. A person or organization operating under nonprofit exemption shall operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations. (Ord. 88-13 §1(Exhibit A)(part), 1988).

TIGARD MUNICIPAL CODE

5.04.120 Issuance Of Business Tax.

1. The City shall collect all taxes and shall issue receipts under the provisions of this chapter. The City shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.

2. Business which constitute a home occupation as defined in Chapter 18.385.020 of the Tigard community development code shall have a valid home occupation permit prior to the issuance of a business tax receipt. All other business tax receipts shall be issued upon written application and receipt of the applicable tax by the City.

3. A duplicate tax receipt shall be issued by the City to replace any receipt previously issued which has been lost, stolen, defaced, or destroyed, without any wilful conduct on the part of the business taxpayer upon the filing by the business taxpayer of a statement attesting to such a fact and paying the City a fee of ten dollars. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.130 Procedure For Obtaining And Displaying A Receipt.

1. All business tax receipts shall be issued upon written application and receipt of the applicable tax by the City.

2. The business tax application shall be completely filled out before a tax certificate is issued. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.140 Display.

Upon payment of the business tax, a person shall be issued a receipt by the City, which receipt shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the receipt,

the receipt shall be in the possession of the representative of the business present within the City at all times during which business is being transacted. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.150 Reissue Of Tax Receipt.

A business tax receipt may be reissued if incorrect information is recorded on the certificate.

1. If the reissue is the result of incorrect information due to an error by the City or a City employee, there will be no fee.

2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.

3. If a business tax receipt holder relocates during the calendar year, City files will be updated but a new receipt will not be issued until the next renewal receipt is issued. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.160 Fee Schedule.

1. All fees shall be set by resolution of the City Council.

A business tax receipt will be valid from the date of payment through December 31st of that year.

2. The initial payment of an annual business tax can be made at any time. Thereafter the annual tax shall be due in full January 1st. The annual fee will be prorated for those businesses who begin operation after January 1st.

3. There will be no business tax refunds for businesses who cease operation or who move out of Tigard during the tax year. (Ord. 02-05, Ord.

TIGARD MUNICIPAL CODE

88-13 §1(Exhibit A)(part), 1988).

5.04.173 Temporary Business.

1. A temporary business as defined in Section 5.04.030.10, must comply with all regulations in this chapter.

2. The business tax fee for a temporary business shall be set by resolution of the City Council. A business tax receipt for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business tax payment. (Ord. 02-05, Ord. 88-13 §1(Exhibit A)(Part), 1988).

5.04.180 Enforcement.

The City is authorized to conduct inspections to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s) shall be responsible for the enforcement of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.190 Penalties.

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business tax, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

4. Payment of the business tax after the complaint and summons is served is not a defense.

5. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

5.04.200 Rate Review And Adjustment.

Adjustments in the administration and enforcement portion of this chapter may be made by the City Council following a cost analysis to occur annually during the budget cycle and in conformance with Chapter 3.32 of this code. (Ord. 88-13 §1(Exhibit A)(part), 1988).■